

## Message Text

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PAGE 01      SOFIA 01757 180826Z

15  
ACTION L-03

INFO OCT-01 EUR-12 ISO-00 PER-01 CIAE-00 COME-00 EB-07

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FM AMEMBASSY SOFIA  
TO SECSTATE WASHDC PRIORITY 1624

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ALSO FOR EUR/EE ANDREWS

E.O. 11652: NA  
TAGS: AFSP, PFOR, BU  
SUBJECT: BULGARIAN LABOR CONTRACT

REF: A) STATE 201021; B) SOFIA 1670; C) SOFIA 1671

1. APPRECIATE CLARIFICATION CONTAINED PARA ONE REF A. OUR QUESTION HAD BEEN WHY WE NEED TWO SENTENCES, ONE REFERRING TO SOVEREIGN IMMUNITY OF USG, PRIVILEGES AND IMMUNITIES DERIVED FROM VIENNA CONVENTION ETC. ETC., AND ANOTHER SENTENCE SAYING THAT NOTHING IN THE LABOR CONTRACT SUBJECTS THE USG TO BULGARIAN JUDICIAL OR ADMINISTRATIVE ACTION, ETC.

2. REF A ANSWER WAS THAT "FIRST PART SAYS THAT IF WE'RE SUED, WE RESERVE THE RIGHT TO ASSERT SOVEREIGN IMMUNITY AS A DEFENSE. SECOND BRACKETED PART GOES EVEN FURTHER TO SAY THAT WE MAY NOT EVEN BE SUED IN THE FIRST PLACE." WE FIND THIS HARD TO UNDERSTAND. DOES IT MEAN THAT SECOND PART GOES BEYOND THE PROVISIONS OF THE VIENNA CONVENTION AND "GENERALLY ACCEPTED PRINCIPLES OF INTERNATIONAL LAW AND PRACTICES" CONTAINED IN THE FIRST PART? REQUEST ANOTHER REVIEW OF ORIGINAL TEXT IN REF C, BULGARIAN POSITION AND EMBASSY RECOMMENDATION IN REF B, AND FULL EXPLANATION; FOR WE CANNOT ARGUE CONVINCINGLY ON THIS POINT IF WE ARE NOT OURSELVES CONVINCED. WE MUST BE MISSING SOMETHING.

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PAGE 02      SOFIA 01757 180826Z

3. IMPLICATION OF PARA 1 REF A SEEMS TO BE THAT DEPT WANTS US

TO OBTAIN FROM A HOUSEKEEPING AND LOCAL PERSONNEL-HIRING AGENCY OF THE FOREIGN MINISTRY SOMETHING THAT IS NOT CONTAINED IN THE CONVENTIONS AND "GENERALLY ACCEPTED PRINCIPLES OF INTERNATIONAL LAW AND PRACTICES" ETC. THIS BODK WOULD REGARD AS BEYOND ITS COMPETENCE. WE WOULD NEED VERY PERSUASIVE ARGUMENTATION WHY SUCH APPARENTLY NEW AND LARGE MATTERS NEED TO BE NEGOTIATED IN THE CONTEXT OF A HOUSEKEEPING DOCUMENT.

4. ON THE OTHER HAND, IF SOVEREIGN IMMUNITY ETC. ALREADY COVERS US ADEQUATELY AS PER THE FIRST SENTENCE, THEN WE AGAIN REQUEST AUTHORITY TO DROP THE SECOND SENTENCE. ALTERNATIVELY, IF DEPT CONSIDERS THE SECOND SENTENCE TO BE MORE ALL-EMBRACING THAN THE FIRST ONE, PERHAPS WE COULD SUGGEST TO THE BULGARIANS THAT THEY TAKE THE SECOND ONE ALONE--ALTHOUGH THIS WOULD SEEM TO US LESS DESIRABLE FROM THE US POINT OF VIEW THAN REFERRING TO THESE SEVERAL SETS OF IMMUNITIES.

5. IN OTHER WORDS, WE STILL BELIEVE OUR NEGOTIATING INSTRUCTIONS SHOULD BE REVISED AS PER REF B. IF THERE ARE GOOD REASONS TO THE CONTRARY, THEY WERE NOT STATED IN REF A. IN ANY CASE, IF DEPT HAS PLAUSIBLE LEGAL REASONS WHY IMMUNITY FROM SUIT NEEDS TO BE STATED SEPARATELY, SURELY THE FIRST SENTENCE COULD BE REPHRASED (HOPEFULLY MAKING IT LESS CUMBERSOME THAN THE PRESENT ONE) IN A MANNER THAT OBIVIATES NEED FOR THE SECOND ONE.

6. WE HOPE IT IS CLEAR THAT WE ARE NOT SUGGESTING THAT USG CONCEDE ONE JOT OR TITTLE OF OUR LEGAL RIGHTS. ON THE OTHER HAND, WE BELIEVE IT IS NOTEWORTHY THAT GOB IS PREPARED TO ACCEPT FROM US A SAVING CLAUSE THEY HAVE REJECTED HERETOFORE, AND ARE PREPARED IN IT TO ACCEPT STIPULATIONS AND INTERPRETATIONS WHICH THEY HAVE STOUTLY RESISTED WHEN PROPOSED BY OTHER EMBASSIES. IN THIS SITUATION, WE SHOULD HAVE THE MINIMUM OF NEGOTIATING ROOM NECESSARY TO BRING THIS MATTER TO A SUCCESSFUL CONCLUSION WITHOUT RUBBING THEIR NOSES OR THEIR SENSITIVITIES MORE THAN IS NECESSARY TO ENSURE WE ARE AMPLY LIMITED OFFICIAL USE

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PAGE 03      SOFIA 01757 180826Z

PROTECTED AGAINST SUIT, PENALTY OR DISRUPTION OF OPERATIONS. THIS, IT SEEMS TO US, BULGARIANS HAVE CONCEDED IN AGREEING TO EXCHANGE OF NOTES WHICH INCLUDES LANGUAGE OF REF C, PARA FOUR (FIRST SENTENCE) AND STIPULATIONS OF PARA FIVE.  
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